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Chapter/Part 601

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NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Tra 600 CONTROL OF OUTDOOR ADVERTISING

Statutory Authority: RSA 236:84, 236:88-a, VIII

PART Tra 601 OFF PREMISE OUTDOOR ADVERTISING

Tra 601.01 Purpose. The purpose of this chapter is to implement the statutory scheme set forth in RSA 236:69- RSA 236:88-a through regulation of the erection and maintenance of outdoor advertising devices.

Source. #4507, eff 10-19-88; ss by #4835, eff 6-5-90; ss by #6237, eff 4-30-96; ss by #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.02 Scope.

(a) These rules shall apply to all outdoor advertising devices erected, maintained, or sought to be erected along:

(1) Controlled routes; and

(2) Areas of Class I, II, or III highways where the provisions of RSA 236:88-a apply.

Source. #4507, eff 10-19-88; ss by #4835, eff 6-5-90; ss by #6237, eff 4-30-96; ss by #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.03 Definitions.

(a) "Advertising device" means "advertising device" as defined in RSA 236:70, I.

(b) "Business" means any activity engaged in, whether or not for profit, by a person, sole proprietor, partnership, corporation, trust, professional association, limited liability company, limited liability partnership, or any other form of legal entity recognized by the laws of the State of New Hampshire.

(c) "Business center" means a property, regardless of how owned, upon which two or more unrelated businesses are conducted in spaces that are physically separated, and recognized by the municipality as separate entities. The term includes properties generally described as a "mall", "retail center", "office center", "professional center", or "strip mall".

(d) "Commercial or industrial activities" means "commercial or industrial activities" as defined in RSA 236:70(VI).

(e) "Controlled route" means any highway that is a part of the turnpike system, interstate system or federal aid primary system.

(f) "Destroyed sign" means a sign no longer in existence due to factors other than vandalism, or other criminal or wrongful acts.

(g) "Dilapidated sign" means a sign which is shabby, neglected, in disrepair, or which fails to perform its intended function of conveying a message. Characteristics of a dilapidated sign include, but are not limited to, structural support failure, a sign not supported as originally constructed, panels or borders missing or falling off, intended messages have deteriorated to the point where they cannot be interpreted by the motoring public, or a sign which is blocked by vegetation outside the highway right of way.

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- (h) "Directional or informational sign" means "directional and informational signs" as defined in RSA 236:70 III.
- (i) "Erect" means "erect" as defined by RSA 236:70, IX.
- (j) "Face" means that portion of the sign structure available for advertising, and visible from a single direction of travel;
- (k) "Farm sign" means "farm sign" as defined in RSA 236:70, XIX.
- (l) "Federal aid primary system" means "federal aid primary system" as defined in RSA 236:70, V.
- (m) "Federal aid secondary system" means "federal aid secondary system" as defined in RSA 236:70, XVI.
- (n) "Federal highway adjacent area" means "federal highway adjacent area" as defined in RSA 236:70, XI.
- (o) "Illegal sign" means an advertising device that is erected and/or maintained in violation of state law.
- (p) "Legible" means capable of being read without visual aid by a person of normal visual acuity.
- (q) "Maintain" means "maintain" as defined in RSA 236:70, X.
- (r) "Main traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, each direction has its own main traveled way.
- (s) "Non-conforming sign" means "nonconforming sign" as defined in RSA 236:70, XVIII.
- (t) "On premise or on-property sign" means "on premise signs" as defined in RSA 236:70 II.
- (u) "Panel" means one face of a sign structure.
- (v) "Property" as used in RSA 236:70, II means land commonly owned, or maintained pursuant to a written maintenance agreement, by owners, tenants, or occupants of contiguous parcels, as part of a single development with a common land use and marketed under a single identity. For purposes of this rule, contiguous parcels mean parcels that share common boundaries forming an unbroken sequence not separated by local or state maintained roadways.
- (w) "Structure" means the group of components erected or used in connection with the display of an advertising device, and includes, but is not limited to the sign face, base or apron, lighting, supports, and all attachments used in conjunction therewith.
- (x) "Traffic control sign, signal or device" means any sign, signal or device described in the Manual of Uniform Traffic Control Devices, as amended, made applicable to the states pursuant to 23 U.S.C. Sections 109(d) and 402 (a), and regulations adopted at 23 CFR Part 655, and expressly adopted by the department for the regulation of traffic activity in New Hampshire pursuant to RSA 236:1.
- (y) "Turnpike adjacent area" means "turnpike adjacent area" as defined in RSA 236:70, XIV.
- (z) "Unzoned commercial or industrial area" means "unzoned commercial or industrial area" as defined in RSA 236:70, VIII.

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(aa) "Variable clear zone distance" means the distance in feet or meters within the state transportation right of way from the edge of the driving lane of a public way that is suggested to remain free of fixed objects that could serve to prevent the operator of a motor vehicle from acting to return the vehicle to safe operation on the way after unintentionally running off the driving lane. The distance will vary based upon the design speed of the way, the design average daily traffic volume, the geometry of the roadside, site specific physical conditions, crash history at the location, and the judgment of the professional highway designer.

(ab) "Visible" means capable of being seen without visual aid by a person of normal visual acuity whether or not legible.

(ac) "Zoned commercial or industrial area" means "zoned commercial or industrial area" as defined in RSA 236:70, VII.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.04 Restrictions on Outdoor Advertising Devices.

(a) Pursuant to RSA 236:72, no advertising device other than on-premise signs, directional signs, informational signs, or political signs, as described in RSA 236:73, III, IV, and V shall be erected or maintained in a federal highway or turnpike adjacent area without a permit issued by the commissioner of transportation.

(b) Pursuant to RSA 236:88 and RSA 236:88-a, no advertising device may be placed in the right of way of a Class I, II, or III highway without a permit issued by the commissioner of transportation.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.05 Outdoor Advertising Devices That May be Maintained Without a Permit.

(a) An outdoor advertising device may be erected and maintained on property without a permit or license if:

(1) The device is an on-premise device erected and maintained in accordance with Tra 601.06 and RSA 236:73, III;

(2) The device is a directional or informational sign erected and maintained in accordance with department policy; or

(3) The device is a political sign, erected and maintained pursuant to RSA 236:73, V and RSA 664:17.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.06 On-Premise Outdoor Advertising Devices.

(a) To be classified as an on-premise advertising device, the device shall be:

(1) Owned by the owner, co-owner, lessee, or tenant of the real property on which the device is erected or maintained; and

(2) Used solely for the communication of information permitted by RSA 236:70, II and RSA 236:73, III.

(b) The following devices shall not qualify as an on-premise advertising device:

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- (1) A device sought to be erected pursuant to RSA 236:88-a on land owned or used by the State of New Hampshire for transportation purposes;
- (2) A device on property taxed by municipal officials to an entity other than the advertised entity, unless the advertised entity occupies the property as a co-owner, or under a written lease or tenancy agreement;
- (3) A device on property that cannot be put to any reasonable use related to the advertised activity other than the erection of signage, including but not limited to a device placed at the end of a narrow strip of property; or land normally inaccessible due to topographical characteristics;
- (4) A device on land when the only legal basis for use of the land by the owner of the device is an easement;
- (5) A device located on land so burdened by an easement appurtenant to another property or in gross to another person that it cannot be put to any reasonable use related to the advertised activity other than the erection of signage;
- (6) A device on land owned by the advertised entity, but used or devoted to a purpose unrelated to, or not accessory to, the advertised entity;
- (7) A device advertising products, services or activities not produced, available, conducted or performed on the land where the device is located;
- (8) A device consisting primarily of brand name or trade name advertising, if:
 - a. The owner of the land receives compensation or rental income for its existence; or
 - b. The product or service advertised is only incidental to the principal activity conducted on the land;
- (9) A device advertising directions to, or the sale or lease of the land upon which it is placed, but which also advertises any product, service, or business activity unrelated to the sale or lease of the land on which the device is located;
- (10) A device which advertises the sale or lease of the land upon which it is placed, but which also identifies a corporation or business activity as the property owner more conspicuously than the for sale or lease message;
- (11) A device located more than 50 feet from the advertised activity, measured as follows:
 - a. For a business, commercial or industrial use, from the regularly used buildings, parking lots, storage or processing areas, or other structures essential to the conduct of the business;
 - b. For noncommercial use, from the major structures on the property; and
 - c. For all uses, no measurement shall be made from a driveway, fence, or other facility used for the purpose of access, landscape improvement, or to delineate a boundary;
- (12) A device that can only be installed or maintained from a point on land owned by another or by the state; and
- (13) A device located on land owned by the advertised activity, but physically separated from the activity by a publicly accessible way.

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(c) If the owner, lessee, or occupant of the parcel of land ceases to conduct the activity advertised on the device, the structure or device shall thereafter be treated as a new off-premise advertising device unless the advertising copy is changed to a use permitted by RSA 236:73 III, IV, or V within a reasonable time, not to exceed 90 days.

(d) A device within a business center shall continue to be classed as on-premise regardless of any of the following occurrences:

- (1) The creation or construction of a publicly accessible common parking area, driveway, public or private street, overpass, divider, connector, or easement intended for ingress or egress, regardless of where or when created or constructed;
- (2) The sale, transfer, or conveyance of an individual lot, parcel, or parcels less than the whole, within the development project; or
- (3) The sale, transfer, conveyance, or change of name or identification of a business within the business center.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.07 Off-Premise Advertising Device Permit.

(a) The owner of an off-premise advertising device shall acquire a permit from the bureau of traffic for each such device.

(b) An applicant shall file DOT form No. HASP 904, entitled "Application for Permit to Locate Outdoor Advertising Sign", and supply the following information:

- (1) Name of applicant;
- (2) Mailing address;
- (3) Telephone number;
- (4) Detailed location information for the device, including:
 - a. A sketch map showing directions and distances from physical reference points; and
 - b. A statement as to whether the applicant believes the proposed sign location is within the area owned or used by the State of New Hampshire for transportation purposes;
- (5) A sketch depicting the shape of the device;
- (6) Advertising subject matter and copy;
- (7) Device size including the following:
 - a. Number of faces displaying advertising;
 - b. Dimensions of each face; and
 - c. Overall height of the structure above ground;
- (8) Type of construction of the device including the following:

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- a. Construction materials; and
 - b. Illumination and/or animation;
 - (9) Date the device was initially established, if pre-existing;
 - (10) Zoning classification at the device location as established by the municipality, if any;
 - (11) A signed statement completed by an authorized municipal official:
 - a. Verifying the claimed local zoning classification; and
 - b. Noting any additional conditions placed upon the location by the municipal zoning ordinance or decision of a local land use board;
 - (12) Unless located in the State's right of way area, a signed statement of the landowner of the property upon which the device is or will be located indicating consent for placement of the device;
 - (13) The amount of rental compensation paid to the landowner;
 - (14) Signature of the applicant;
 - (15) Capacity and authority of the applicant, if signing for a trust, partnership, corporation, or limited liability company; and
 - (16) Date of application.
- (c) The applicant shall submit the fee required by RSA 236:72.
- (d) Upon receipt of a completed application form and the required fee, the application shall be reviewed in the following manner:
- (1) The bureau of traffic shall review the application for completeness, conformance to Tra 601.11 through Tra 601.15, and RSA 236:69 to 236:88-a;
 - (2) If it appears to the bureau of traffic that the proposed sign location could be within the state right of way, the application shall be forwarded to the bureau of right of way and the bureau of highway design in order to:
 - a. Determine if the proposed sign location is within the state owned or maintained right of way, and
 - b. Determine if the proposed sign location:
 - 1. Presents potential dangers to the traveling public; and
 - 2. Whether the location can be made safe, or must be denied in accordance with Tra 601.15.
- (e) At the conclusion of the review process described in (e) above, either:
- (1) A permit allowing the applicant to erect a new device as proposed on the application shall be issued;

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- (2) A permit for an existing device as presently erected in the field shall be issued; or
 - (3) The application shall be denied, and a written notice provided to explain why the application could not be approved, and how the applicant may request a hearing to review the decision.
- (f) Each permit shall expire on April 1 following the date of issue.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.08 Off-Premise Advertising Device Permit Renewal.

- (a) The owner of a permitted outdoor advertising device shall:
- (1) Inform the bureau of traffic of changes in name or address of any owner of the device;
 - (2) Inform the bureau of traffic of changes in name or address of the landowner of the land on which the device is placed; and
 - (3) Seek annual renewal of the permit by filing an application therefor and paying the required fee.
- (b) The bureau of traffic shall furnish Form HASP 904R, entitled, "Application for Renewal of Outdoor Advertising Permit" by mail to the last known address of each permit holder by February 15 of each year.
- (c) The applicant shall file Form HASP 904R with the bureau of traffic, together with the fee required by RSA 236:71, by March 15 of each year.
- (d) The following information shall be provided on Form HASP 904R:
- (1) Signature of applicant, including capacity and authority if signing for a trust, partnership, corporation, or limited liability company;
 - (2) Date of application;
 - (3) A change in any of the following aspects of the device occurring since the date of the current permit:
 - a. Ownership of the device;
 - b. Dimensions of the support structure;
 - c. Dimensions of the advertising face;
 - d. Overall height of the device above ground;
 - e. Addition or removal of all or a portion of the following sign elements:
 - 1. Apron;
 - 2. Trim; or
 - 3. Lighting;
 - f. Ownership of the land where the device is located;

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- g. The amount of rent or other compensation being paid to the land owner; or
- h. Damage to the device resulting from vandalism or other wrongful act; and

(4) Unless located on property owned or used by the State for transportation purposes, written landowner consent for the device.

(e) Upon receipt of the completed application for renewal and the required fee, the application shall be reviewed, and a permit issued unless information contained on the application, or obtained from a field review of the device, indicates that the device does not comply with Tra 601.11 through Tra 601.15.

(f) If an application for renewal of an annual permit is denied, a written notice shall be provided explaining why the application could not be approved, and how the applicant may request a hearing to review the decision.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.09 Off-Premise Advertising Device License.

(a) Pursuant to RSA 236:71, owners of 11 or more off-premise advertising devices shall acquire an outdoor advertising license in addition to a permit for each such device.

(b) The bureau of traffic shall furnish Form HASL 903, entitled, "Application for License" by mail to the last known address of each license holder by February 15 of each year.

(c) The applicant shall file Form HASL 903 with the bureau of traffic, together with the fee required by RSA 236:71, by March 15 of each year.

(d) The following information shall be provided on Form HASL 903:

(1) Name of proposed license holder;

(2) Mailing address;

(3) Telephone number;

(4) Detailed location information for each device, including the following:

a. Town where the device is located;

b. Highway adjacent to each device;

c. Direction from the highway; and

d. A reference point and distance from the reference point.

(5) Signature of the applicant;

(6) Capacity of the applicant if signing for a trust, partnership, corporation, or limited liability company; and

(7) Date of application.

(e) Upon receipt of a completed application for license and the required fee, the application shall be reviewed to confirm that each off premise outdoor advertising device listed on the license application has been issued an outdoor advertising permit, and either:

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- (1) A license shall be issued; or
 - (2) The application shall be denied, and a written notice provided to explain why the application could not be approved, and how the applicant may request a hearing to review the decision.
- (f) Each license shall expire on April 1 following the date of issue.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.10 Off Premise Advertising Device License Renewal.

- (a) The holder of an outdoor advertising license shall:
- (1) Inform the bureau of traffic of changes in name or address of the owner of any device covered by the license;
 - (2) Inform the bureau of traffic of changes in name or address of the landowner of the land on which the device is placed, if different than the license holder;
 - (3) Inform the bureau of traffic of changes in advertising copy placed upon any device covered by the license; and
 - (4) Seek annual renewal of the license by filing an application therefor and paying the required fee.
- (b) The bureau of traffic shall furnish Form DOT HARL 908R, entitled, "Application for Renewal of Outdoor Advertising License" by mail to the last known address of each license holder by February 15 of each year.
- (c) The applicant shall file Form DOT HARL 908R with the bureau of traffic, together with the fee required by RSA 236:71, by March 15 of each year.
- (d) The following information shall be provided on Form DOT HARL 908R:
- (1) Name of the license holder;
 - (2) Mailing address;
 - (3) Telephone number;
 - (4) Number of off-premise advertising devices under permit;
 - (5) A change in any of the aspects described in Tra 601.08 for any of the devices covered by the license since the date of issue of the previous license;
 - (6) Signature of applicant, including capacity and authority if signing for a trust, partnership, corporation, or limited liability company; and
 - (7) Date of application.
- (e) Upon receipt of the completed application for renewal and the required fee, the application shall be reviewed, and a license issued unless information contained on the application, or obtained from a field review of the licensed devices, indicates that any covered device does not comply with Tra 601.11 through Tra 601.15.

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(f) If an application for renewal of a license is denied, a written notice shall be provided explaining why the application could not be approved, and how the applicant may request a hearing to review the decision.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.11 Non-conforming Advertising Devices.

(a) Non-conforming outdoor advertising devices lawfully erected shall be granted a permit or renewal permit unless:

- (1) Ordered removed pursuant to RSA 236:77 and these rules;
- (2) Substantially changed in a manner prohibited by these rules;
- (3) The non-conforming use has been abandoned for a period in excess of one year; or
- (4) The non-conforming device is destroyed by any means other than vandalism.

(b) Non-conforming devices may be maintained at any time by:

- (1) Repainting or repair of the structure, trim, apron, base or sign face;
- (2) Change of advertising copy;
- (3) Replacement of damaged or deteriorated electrical or other components with like materials;
- (4) Alterations which result in a net decrease in the dimensions or square footage of the structure, or the advertising sign face; or
- (5) Permanent removal of electrical components, border, trim or apron.

(c) A non-conforming device that has been substantially changed shall be deemed to have abandoned its non-conforming use, and shall not be granted a permit or renewal permit.

(d) For purposes of (c) above, "substantial change" means the following types of alterations:

- (1) Enlargement of the dimensions of any structural component;
- (2) Enlargement of the dimensions or square footage of the face;
- (3) Increase in the overall height of the structure, or the face;
- (4) Addition of electrical components, borders, aprons or trim;
- (5) Replacement of damaged or deteriorated parts with other than like kind materials;
- (6) Re-enlargement or reinstallation of any feature once removed from a non-conforming sign and not replaced within a reasonable time, not to exceed 90 days;
- (7) Modification that changes the type of structure of a device, such as conversion of a wooden sign structure to a metal structure; or
- (8) Any other modification that serves to change the location, dimensions, illumination, or base materials of the device.

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(e) A non-conforming device shall be deemed to have abandoned its use if for a period in excess of one year:

- (1) An annual outdoor advertising permit is allowed to expire, and is not renewed;
- (2) The advertising matter on the device relates to a business that has ceased operations;
- (3) The device displays no advertising matter;
- (4) The device displays only a message that the device is available for sale, for rent, or for lease;
or
- (5) The advertising matter on the device has been partially obliterated by the owner so as not to identify a particular product, service, or facility.

(f) A non-conforming device shall not be removed and re-erected at the same location.

(g) A non-conforming device shall not be relocated, except to a conforming location.

(h) A non-conforming device that is destroyed shall not be re-erected. "Destroyed" means that 50 per cent or more of the device structure or advertising face is damaged or deteriorated to the point that standard practice in the industry would require replacement of such structural elements or advertising face materials.

(i) A non-conforming device deemed destroyed, abandoned, or discontinued shall not lose eligibility for a permit if the commissioner finds that:

- (1) The device was destroyed as a result of vandalism or other criminal or wrongful act; or
- (2) Abandonment or discontinuance of the device was the result of a closure of the highway in front of the sign for repair.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.12 Criteria for All Off Premise Advertising Devices.

(a) No off premise advertising device shall be granted a permit or renewal if it displays any of the following content:

- (1) Text or images that resemble or imitate an official traffic control sign, signal or device;
- (2) Text or images that attempt or appear to attempt to direct the movement of traffic;
- (3) Two off-premise advertising devices upon a single facing, if the area of advertising copy for either of the devices exceeds 350 square feet; or
- (4) More than 2 off premise advertising devices upon a single facing, regardless of the area of advertising copy for any device.

(b) No off premise advertising device shall be granted a permit if any of the following hazardous conditions are present:

- (1) The advertising device or its support structure presents a substantial risk of collapse, detachment, fire, or electric shock within the permit period due to:

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- a. Design, materials, fabrication, or installation that are inadequate to withstand the effects of the elements;
 - b. Deterioration or decay from exposure to the elements over time; or
 - c. Damage from accident, vandalism, or acts of nature; or
- (2) The device includes or is illuminated in any manner by lights that are:
- a. Flashing, intermittent, or moving;
 - b. Not effectively shielded to prevent beams or rays of light from being directed at any portion of the main traveled way of one or more controlled routes;
 - c. Of sufficient intensity or brilliance to cause glare, impairment of vision, or distraction of a driver of a motor vehicle; or
 - d. Other than white in color.
- (c) No off-premise advertising device shall be granted a permit if the size of the device exceeds:
- (1) Structural height of 50 feet, measured from the highest point of the advertising structure perpendicularly to the surface of the ground or bottom of the sign base, which ever is greater;
 - (2) Combined advertising area in one facing of 750 square feet;
 - (3) Height of an advertising face of 20 feet; or
 - (4) Length of an advertising face of 50 feet.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.13 Criteria for Location of Off Premise Advertising Devices.

- (a) No off-premise advertising device shall be granted a permit or renewal in a location that has been designated a scenic and cultural byway pursuant to RSA 238:19-24 unless:
- (1) The proposed point of installation is on a section removed from such designation pursuant to RSA 238:24, I; or
 - (2) The device was erected prior to the date such location was so designated and the device remains a legally erected conforming device under these rules.
- (b) No off-premise advertising device shall be granted a permit unless it can be installed in accordance with the following minimum spacing criteria:
- (1) If the new sign location is adjacent to any one side of a non-limited access federal aid primary highway in municipalities of 4,000 or more in population:
 - a. Not less than 100 feet, measured along the traveled way from the nearest point of another lawfully permitted off premise advertising device, if located in an area between 2 intersecting streets, not including alleys, undeveloped rights-of-way, private ways or driveways, less than 1,000 feet apart, up to a maximum of 3 off-premise advertising devices between such intersecting roadways; or

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b. Not less than 300 feet, measured along the traveled way from the nearest point of another lawfully permitted off premise advertising device if located in an area between 2 intersecting streets, not including alleys, undeveloped rights-of-way, private ways or driveways, 1,000 feet or more apart;

(2) Not less than 300 feet, measured along the traveled way from the nearest point of another lawfully permitted outdoor advertising device if located on either side of a non-limited access federal aid primary highway in municipalities of less than 4,000 in population;

(3) Any 2 farm signs adjacent to both sides of a federal aid primary highway shall not be less than 1,000 feet apart; and

(4) Farm signs shall not be located farther than 10 miles from the property where the activity advertised is located.

(c) No off premise advertising device shall be granted a permit if the device is attached, erected, or maintained in any of the following locations:

(1) A point which would permit all or any portion of the device to encroach or overhang any portion of a state highway or state roadway right-of-way, contrary to RSA 236:15, except as provided in these rules;

(2) Upon a utility pole or tree or any other object of nature, contrary to RSA 236:75;

(3) A point adjacent to an interstate, turnpike or limited access federal aid primary highway which measures less than 500 feet from another legally erected off-premise device, an interchange, or safety rest area, unless the devices are separated by a building or other obstruction so that only one device is visible from the main traveled way at any one time;

(4) A point where the device obscures or otherwise physically interferes with an official traffic control sign, signal, or device; or

(5) A point where the device obstructs or physically interferes with a driver's view of approaching, merging or intersecting traffic.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.14 RESERVED

Tra 601.15 RESERVED

Tra 601.16 Effective Control of Outdoor Advertising.

(a) A person seeking to erect or maintain an outdoor advertising device without an outdoor advertising permit or license shall have the burden to show by a preponderance of the evidence that the device meets the criteria noted in Tra 601.05.

(b) The department shall conduct random field reviews to inventory and collect information regarding all outdoor advertising devices located along controlled routes, including whether or not such devices have been granted permits pursuant to these rules.

(c) The bureau of traffic shall, pursuant to RSA 236:78, I, provide a written notice to the device owner, permittee, or licensee of any action required to bring the device into compliance with the requirements of statute or these rules.

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(d) If the owner, permittee, or licensee of the device has not, within 30 days of receipt of the written notice, taken steps required to bring the device into full compliance, the bureau of traffic shall notify such person in writing that any pending application for a permit or license is denied, or declare the device to be a nuisance.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

Tra 601.17 Hearings and Orders for Removal.

(a) An applicant for a permit, license, or renewal thereof may appeal the following determinations of the bureau of traffic to the commissioner by filing a request for hearing pursuant to RSA 541-A and Tra 202:

- (1) Denial of a request for a permit, or renewal thereof;
- (2) Denial of a request for a license, or renewal thereof;
- (3) Revocation of a permit for cause;
- (4) Revocation of a license for cause; or
- (5) Determination that a device is a nuisance.

(b) A device owner may appeal a determination of the bureau of traffic that a device does not qualify as an on-premise advertising device.

(c) The bureau of traffic shall request a hearing and seek an order of removal of any existing outdoor advertising device that constitutes a nuisance, as defined in RSA 236:78, II.

(d) A request for hearing shall be sent to:

Office of the Commissioner
New Hampshire Department of Transportation
P.O. Box 483
Concord, NH 03302-0483"

(e) A request for hearing shall be in writing and made within 30 days from the date of receipt of the written decision issued by the bureau of traffic to the applicant.

(f) The department shall, through the department of justice, seek an immediate order of removal from a court of competent jurisdiction in the event that an outdoor advertising device is or becomes an immediate threat to public safety.

(g) Hearings shall be conducted in accordance with RSA 541-A, and the Tra 200 procedural rules of the department.

(h) Any party aggrieved by a decision rendered following a hearing held hereunder shall have the right to a rehearing before the transportation appeals board pursuant to RSA 21-L:15.

Source. #8005, eff 12-17-03; ss by #10033, eff 11-23-11

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APPENDIX

RULE	STATUTE IMPLEMENTED
Tra 601.01	RSA 236:69- 88-a inclusive
Tra 601.02	RSA 236:69- 88-a inclusive
Tra 601.03	RSA 236:70, I, II, III, V, VI, VIII, IX X XI, XIV, XVI, XVIII, XIX
Tra 601.04	RSA 236:72, 88, 88-a, 23 USC Section 104, 131 (b), 23 CFR Part 750
Tra 601.05	RSA 236:73 III, V, RSA 664:17
Tra 601.06	RSA 236:70 II, III, 88-a, 23 CFR Part 750
Tra 601.07	RSA 236:72
Tra 601.08	RSA 236:72
Tra 601.09	RSA 236:71
Tra 601.10	RSA 236:71
Tra 601.11	RSA 236:77; 23 CFR Part 750
Tra 601.12	RSA 236:1, 74; 23 CFR Part 750, Part 655; 23 USC Section 131
Tra 601.13	RSA 238:19-24; 236:74, 236:15, 236:75
Tra 601.16	RSA 236:78; 23 CFR Part 750
Tra 601.17	RSA 236:78; 541-A: 30-36, 21-L:15